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In re Application of
OLIVE, Scott
Application No.: 09/462,717
PCT No.: PCT/AU98/00525
Int. Filing Date: 08 July 1998
Priority Date: 08 July 1997
Attorney's Docket No.: 2832/FBR
For: SLOT MACHINE GAME AND SYSTEM WITH
IMPROVED JACKPOT FEATURE

DECISION ON PETITION

This decision is in response to the "Petition for Revival of an Application for Patent Unintentionally under 37 CFR 1.137(b)" filed 19 July 2002.

BACKGROUND

On 08 July 1998, applicant filed international application No. PCT/AU98/00525, which claimed a priority date of 08 July 1997. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 January 1999. A Demand for international preliminary examination was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for submitting the basic national fee for entering the national stage in the United States of America expired at midnight on 10 January 2000. (08 January 2000 was a Saturday and 09 January 2000 was a Sunday.)

The application was abandoned on 11 January 2000.

On 11 January 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the authorization to charge the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an unexecuted declaration; preliminary amendment; and a verified statement (declaration) claiming small entity.

On 21 March 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) and Notification of a Defective Oath or Declaration (Form PCT/DO/EO/917) indicating that the declaration was not executed in accordance with 37 CFR 1.66 or 37 CFR 1.68. The notification set a one-month time limit to respond.

On 10 April 2000, applicant filed a "Response to Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US)" which was accompanied by executed declaration and power of attorney.

On 13 June 2000, the PCT Legal Office mailed Communication and Notification of Abandonment.

On 19 September 2000, applicant filed "Petition Under 37 CFR 1.10(c) or 1.10(d) to Correct 'Date-In' and Remove Notice of Abandonment" which was treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment and request that the national stage application papers be accepted as filed on 10 January 2000." The petition was dismissed in decision dated 05 June 2001. The application remained abandoned.

On 18 July 2002, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

With regard to Item (1), the proper response was the submission of the petition to revive under 37 CFR 1.137(b).

As to Item (2), the appropriate petition fee of \$1280.00 has been submitted.

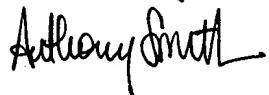
With regard to Item (3), applicant's statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

As to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

CONCLUSION

All of the requirements of 37 CFR 1.137(b) have been met and applicant's petition to revive is GRANTED.

This application is being returned to the United States Designated/Elected Office for processing in accordance with this decision. The 35 U.S.C. 371(c) date is **10 April 2000**.



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